

STATE OF WASHINGTON



OFFICE OF
INSURANCE COMMISSIONER

In the Matter of
PROFESSIONAL LIABILITY
INSURANCE COMPANY OF
AMERICA, an Authorized Insurer

No. D 03-52

CONSENT ORDER

FINDINGS OF FACT:

1. Professional Liability Insurance Company of America ("Professional") is authorized to write property and casualty insurance in the state of Washington.

2. Professional is subject to Title 48 RCW, the insurance code. It is also subject to Title 284 of the Washington Administrative Code (WAC). WAC 284-07-010 (1) , which requires each authorized property and casualty insurer in the state to "...record and report its Washington state loss and expense experience and other data, as required by RCW 48.05.390, on a form issued by the commissioner." This special liability report is to cover the period ending on December 31 of the year which is the subject of the report. The report is to be submitted not later than May 1 of the year following the year which is the subject of the report. Consequently Professional was required to report this information, including a negative report, for the year 2001 by filing its special liability report for that year with the commissioner, by not later than May 1, 2002.

3. On May 23, 2002, the Senior Actuary of the Office of the Insurance Commissioner sent a reminder letter to those authorized property and casualty insurers which had not filed their 2001 special liability reports by May 1, 2002. The reminder letter warned that if the insurer's overdue report was not received by the OIC by June 14, 2002, a fine of \$2500 would be assessed against the insurer. Although Professional's records indicate that it had sent its 2001 special liability report to the OIC on February 22, 2002, the OIC never received any special liability report from Professional around that date. In addition, although the Senior Actuary's May 23, 2002 reminder letter to Professional was correctly addressed, Professional reports that it did not receive that reminder letter.

4. On September 5, 2002, a staff attorney employed by the OIC wrote to Professional. His letter said that he would be sending Professional a consent order imposing a fine for the failure of the insurer to file its 2001 special liability report with the OIC by May 1, 2002. Professional responded to that letter with a phone call to the OIC staff attorney on September 10, 2002. At that time, Professional also faxed a copy

of its 2001 special liability report to the staff attorney. This was when the OIC received the report for the first time.

CONCLUSIONS OF LAW:

1. The failure of Professional Liability Insurance Company to submit its 2001 special liability report to the OIC by May 1, 2002, was a violation of WAC 284-07-010 and also a violation of RCW 48.05.380 ("Reports by property and casualty insurers") and of RCW 48.05.390 ("Reports by various insurers- Contents.").

2. RCW 48.05.140 (1) authorizes the insurance commissioner to suspend or revoke the certificate of authority held by an insurer which "...fails to comply with any provision of this code other than those for violation of which refusal, suspension or revocation is mandatory."

3. RCW 48.05.185, "Fine in addition to or in lieu of suspension, revocation or refusal" provides that "After hearing or with the consent of the insurer and in addition to or in lieu of the suspension, revocation or refusal to renew any certificate of authority, the commissioner may levy a fine upon the insurer in an amount not less than two hundred fifty dollars and not more than ten thousand dollars."

CONSENT TO ORDER:

1. Although Professional still maintains that it sent its 2001 special liability report to the OIC in February of 2002, Professional does not dispute that the OIC did not receive that report. Professional also does not dispute that the OIC did not receive its 2001 special liability report until Professional faxed it to the OIC staff attorney on September 10, 2003. Professional stipulates to the findings of fact and conclusions of law in this consent order and agrees to pay a fine of \$1000 in full, within 30 days of the date this order is entered.

2. If the fine of \$1000 is not paid in full and timely, this will constitute grounds for revocation of the certificate of authority maintained by Professional in the state of Washington. It will also result in a civil action by the Attorney General, on behalf of the OIC.

3. Professional stipulates to comply with all insurance laws and regulations of this state in the future, including but not limited to the regulations and statutes which were violated in this case.

Executed this 17th day of April, 2003, by _____

Printed Name _____

Printed Corporate Title _____

ORDER:

Pursuant to RCW 48.05.185, the Insurance Commissioner imposes a fine of \$1000 (one thousand dollars and no/100) upon Professional Liability Insurance Company, expressly in lieu of further proceedings against the certificate of authority held by that insurer in the state of Washington. This fine is to be paid in full within thirty days of the entry of this order. Failure to pay this fine timely and in full will constitute grounds for the revocation of the certificate of authority held by Professional Liability Insurance Company in the state of Washington. It will also result in a civil lawsuit brought on behalf of the OIC by the Attorney General, to collect the fine.

ENTERED AT TUMWATER, WASHINGTON, this 21st day of April, 2003.

MIKE KREIDLER
Insurance Commissioner

By_____

William Kirby
Legal Affairs Division